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Attorneys for Plaintiff
 LOUIS M. BINALEY

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

LOUIS M. BINALEY,

 Plaintiff,

 vs.

AT&T UMBRELLA BENEFIT PLAN
 NO. 1; AT&T Inc.,

 Defendants.

Case No. CV10-4439 RS

**STIPULATION AND ORDER FOR
 VOLUNTARY DISMISSAL WITHOUT
 PREJUDICE**

Fed. R. Civ. P. 41(a)(1)(A)(ii)

The parties hereby stipulate as follows:

1. Plaintiff Louis M. Binaley ("plaintiff") hereby stipulates and requests that the Court dismiss the present action in its entirety, without prejudice, pursuant to Fed. R. Civ. P. 41(a)(1)(A)(ii);

2. AT&T Umbrella Benefit Plan No. 1 (the "Plan") stipulates and agrees that plaintiff is permitted to file an administrative appeal of the denial of his claim for long term disability benefits (the "administrative appeal"), and that the Plan shall perform a full and fair review of the appeal in accordance with the applicable provisions of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. §§ 1001, et seq. and the applicable federal regulations promulgated thereunder;

3. Plaintiff agrees to file his administrative appeal and submit all medical documentation for the time period November 2008 to the present in support of the administrative appeal within 60 days of the effective date of the Order herein. The Plan shall make its determination on the administrative appeal within 60 days from the date Plaintiff submits all his medical documentation.

4. The Plan stipulates and agrees that any statutes of limitation or other time limitations otherwise applicable to plaintiff's claims are tolled during the pendency of the appeal, and the running of any applicable limitation period will resume when a final determination is rendered on the administrative appeal. Plaintiff will not be barred from filing a timely civil action thereafter.

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Dated. December 15, 2010

LAFAYETTE & KUMAGAI LLP



REBECCA K. KIMURA
ATTORNEYS FOR
AT&T UMBRELLA BENEFIT PLAN NO. 1;
AT&T, INC.

Dated: December 15, 2010

ROBOOSTOFF & KALKIN



CONSTANTIN V. ROBOOSTOFF
ATTORNEYS FOR PLAINTIFF
LOUIS M. BINALEY

ORDER

IT IS SO ORDERED:

Date: 12/16, 2010



HON. RICHARD SEEBORG
U.S. DISTRICT COURT JUDGE

CERTIFICATE OF SERVICE

I certify that a copy of this document was served electronically on December 15, 2010, on counsel of record in compliance with Federal Rule 5, Local Rule 5.6 and General Order 45, by use of the Court's ECF system.

/s/ Rebecca K. Kimura
REBECCA K. KIMURA

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(Case No. CV10-4439 RS)

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